IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

Crl.Rev.Pet.No. 3399 of 2007()

CC.1528/2004 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOLLAM

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REVN. PETITIONER: REVISION PETITIONER/COMPLAINANT

M.E.KABEER, FIRD HOUSE,
CHENTHAPPURE, DECENT JUNCTION P.O.,
KOLLAM.

BY ADV. SRI.JOHNSON GOMEZ

RESPONDENTS: ACCUSED & STATE

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1. SADANANDAN, S/O.BALAKRISHNAN, 1549/24,
THYCAUD, THIRUVANANTHAPURAM.

2. STATE OF KERALA,
REPRESENTED BY PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 20/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

Crl. R.P. No. 3399 OF 2007

Dated this the 20th day of September, 2007

O R D E R

The revision petitioner is the complainant in a private complaint registered as C.C.No.1528/04 before JFCM-II, Kollam for an offence punishable under section 138 of the Negotiable Instruments Act, 1881. The said complaint has been dismissed under section 204(4) Cr.P.C. for failure to pay process for issuing NBW to the accused.

2. Since the impugned order says that the accused has not entered appearance before the Magistrate so far, notice to the 1st respondent/accused in this revision is dispensed with.

3. Having regard to the fact that the cheque is for a sum of Rs.50,000/- and there does not appear any contumacious conduct on the part of the revision petitioner/ complainant in not remitting the process fee, the Magistrate should have given the complainant one more opportunity instead of dismissing the complaint. Accordingly, the order dated 17.11.06 is set aside and C.C.No.1528/04 will stand restored to file. The revision petitioner shall appear before the court below without any further notice on 15.10.07 by which time he shall have paid the process fee for issuing NBW against the accused.

(V. RAMKUMAR, JUDGE)

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